REMARKS

Applicants respectfully request entry of the Amendment and reconsideration of the claims. Claims 1 and 4-6 have been amended. The specification has been amended to correct obvious typographical errors and to incorporate material by reference. No new matter has been added through the amendments. Claims 1-6 are currently pending. Applicants respectfully request reconsideration and withdrawal of the pending rejections under 35 U.S.C. § 112, first paragraph, and 35 U.S.C. § 103.

Claims

Claims 1 and 4-6 have been amended to correct an obvious typographical error. Claims 1and 4-6 has been amended to correct "antithrombolytic" to "anti-thrombotic" and to recite pyridoxal phophate-6-azophenyl-2',4'-disulphonic acid. Support for the amendments are found throughout the specification, including paragraph 79. No new matter has been added through the amendments.

Specification

The Examiner objects to the incorporation of material in the specification by reference to a foreign application or patent or publication. The specification has been amended in order to include the material incorporated by reference. Applicants enclose an Affidavit, executed by the applicant's Canadian patent agent, stating that the amendatory material consists of the same material incorporated by reference in the disclosure.

The specification has been reviewed and amended to correct typographical errors.

In view of the amendments, Applicants request reconsideration and withdrawal of the objections to the specification.

Rejection Under 35 U.S.C. §112, First Paragraph

The Examiner rejects claims 1 and 4-6 under 35 U.S.C. §112, first paragraph, for an alleged lack of enablement. The Examiner contends that the scope of the claims is not

commensurate with the scope of enablement in the specification. Specifically, the Examiner asserts that pyridoxal-5'-phosphate and the 3-acylated analogues of pyridoxal compounds of claims 2 and 3 for reducing blood clots do not reasonably provide enablement for other types of 3-acylated analogues of pyridoxal. Applicants respectfully traverse.

The instant application teaches and claims the use of pyridoxal-5'-phosphate (P5P), pyridoxal, pyridoxamine, or 3-acylated pyridoxal analogues together with a therapeutic cardiovascular compound in the treatment of congestive heart failure in a mammal. Pyridoxal, pyridoxamine, or the 3-acylated pyridoxal analogues *in vivo* metabolization to pyridoxal-5'-phosphate was well known at the time of filing.

Applicants have sufficiently enabled the genus of 3-acylated pyridoxal analogues. A specification is not required to disclose every example or species covered by a claim, even in an unpredictable art. *In re Angstadt*, 537 F.2d 498, 502 (C.C.P.A. 1976). In the instant specification, Applicants have disclosed the genus of 3-acylated pyridoxal analogues and have exemplified several species, including ones of formula I and formula II at pages 8-10 of the specification. To require Applicants to disclose every species would be unduly burdensome and is not required under existing case law. Accordingly, the specification provides an enabling disclosure to make and use the genus of 3-acylated pyridoxal analogues.

Applicants respectfully disagree with the Examiner's position that undue "painstaking experimentation study" is necessary to determine all of the analogues or derivatives of pyridoxal-containing compositions enabled in this specification. Such a determination is not necessary. The analogues will metabolize to pyridoxal-5'-phosphate. Thus a selection of an analogue is not a burden and does not involve any undue experimentation.

In addition, the Examiner's attention is directed to the fact that the priority application, now US 6,677,356, issued with claims of scope similar to the ones rejected by the Examiner in this application.

Accordingly, Applicants respectfully request reconsideration and removal of the rejection under 35 U.S.C. §112, first paragraph.

Rejections Under 35 U.S.C. §103

The Examiner has cited US Patent No. 6,339,085 of Haque, who is also a named inventor in this application, and has stated that claims 1 and 3-6 are obvious in view of this patent. The Examiner has indicated that the rejection under 35 USC §103(a) may be overcome by a showing under 37 CFR §1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and thus is not inventive "by another". In response, we enclose an Affidavit under 37 CFR §1.132 by the present inventor, demonstrating that any invention disclosed but not claimed in U.S. Patent No. 6,339,085 was derived from the inventor of this application and thus is not an invention "by another".

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. §103.

Obviousness-Type Double Patenting Objection

The Examiner has raised an obviousness-type double patenting objection in relation to claims 1 and 3-6 in view of US Patent No. 6,339,085 of Haque. Additionally, the Examiner has required Applicants to show that the conflicting inventions were commonly owned at the time of invention. In response, Applicants enclose a copy of assignment agreements for the cited reference and the present application, which show that the invention was owned by the same entity at the relevant time.

The Examiner has also raised a provisional obviousness-type double patenting objection in relation to claims 1-6 in view of co-pending applicant's US Application Serial No. 09/863,093. Applicants acknowledge the Examiner's rejections for obviousness-type double patenting. Upon indication of allowance, Applicants will file a terminal disclaimer if appropriate.

In view of the above amendments and remarks, Applicants respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date: 12/2/04

Ronald A. Daignault
Reg. No. 25,968
RDaignault:BRD:mls

23552
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